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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,847	06/04/2002	Frank Stanglmeier	101191/1958	1438

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EXAMINER
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TUNG, TA HSUNG

ART UNIT	PAPER NUMBER
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1753

DATE MAILED: 02/18/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

89/936,847

Applicant(s)

STANGLMEIER ETAL

Examiner

T. TUNG

Group Art Unit

1753

Paper No. 7

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-11 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-11 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaato et al 5,672,811.

Kato discloses a gas sensor comprising a measuring cell with a measuring electrode 22 and a reference electrode 24, a pumping cell with an inner electrode 16 and an outer electrode 18, a measuring gas compartment 6 in which the measuring electrode 22 and the inner pump electrode 16 are located, and an access hole 12 leading to the gas compartment. The measuring electrode 22 and the inner pump electrode 16 are made of a Pt/Au alloy with specific examples of 1 wt %, 10 wt %, 20 wt %, 35 wt % and 40 wt % Au, while the reference electrode is made of Pt. See figure 2; col. 11, line 10 to col. 14, line 37 (particularly col. 12, line 15); col. 26, lines 12-16 and 52-56.

In regard to claim 3, the oxygen partial pressure of 10 to the minus 6 (see col. 15, line 30) disclosed by Kato presumably corresponds with a lambda value of at least 1.3. Certainly, the oxygen partial pressure in the measurement gas compartment can be set to any desired value, including a lambda value of at least 1.3. Also, in any event, the partial pressure value is a process consideration and does not define any structural distinction.

Art Unit: 1102

Claims 6/5/1, 6/5/4, 8/71, 8/7/4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

At the last line of the claims, "preferably...." is vague in that it is unclear if the weight percentages recited after "preferably" are being claimed or not.

Applicant should submit an IDS listing the Ep and DE documents cited in the PCT prosecution. In the case of the DE document 2304464 a concise explanation of its relevance should be supplied.

In the specification, page 1, third line from the bottom, "Claim 1" is improper, since final numbering is often not the same as original numbering.

The examiner can be reached at 703-308-3329. His supervisor Nam Nguyen can be reached at 703-308-3322. Any general inquiry should be directed to the receptionist at 703-308-0661. A fax number for TC 1700 is 703-872-9310.



Ta Tung

Primary Examiner

Art Unit 1753